

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DOMINIQUE DEMONCHAUX,

Plaintiff,

-against-

UNITEDHEALTHCARE OXFORD AND
OXFORD HEALTH PLANS (NY), INC.,

Defendants.
-----X

Civ. Act. No.: 10 CIV. 4491 (DAB)

**NOTICE OF MOTION
TO STRIKE**

Oral Argument Requested

**DOCUMENT
ELECTRONICALLY FILED**

PLEASE TAKE NOTICE that, upon all the papers and proceedings previously submitted to the Court in this action, the Declaration of Michael H. Bernstein dated November 9, 2011 and the exhibit annexed thereto, and upon the Memorandum of Law simultaneously submitted herewith, defendant, Oxford Health Plans (NY), Inc. ("Oxford"), s/h/a Unitedhealthcare Oxford, by its attorneys, Sedgwick LLP, will move this Court, on a date and at a time set by the Court, before the Hon. Deborah A. Batts, U.S.D.J., at the United States District Courthouse for the Southern District Of New York, 500 Pearl Street, New York, New York 10007, for an Order pursuant to Rules 37(c) and 56(c) and (e), FED. R. CIV. PROC., striking certain improper extra-record submissions in Plaintiff Dominique Demonchaux's opposition to Oxford's pending motion for summary judgment, and for such other and further relief this Court deems just and proper.

Dated: New York, New York
November 9, 2011

Respectfully Submitted,

s/

MICHAEL H. BERNSTEIN (MB 0579)
JOHN T. SEYBERT (JS 5014)
BETSY D. BAYDALA (BB 5165)
SEDGWICK LLP
125 Broad Street, 39th Floor
New York, New York 10004-2400
Telephone: (212) 422-0202
Facsimile: (212) 422-0925
(SDMA File No. 02489-000098)
Attorneys for Defendant
Oxford Health Plans (NY), Inc.
s/h/a Unitedhealthcare Oxford

TO:

Scott M. Riemer
sriemer@riemerlawfirm.com
RIEMER & ASSOCIATES, LLC
60 East 42nd Street, Suite 1750
New York, NY 10165
Telephone: (212) 297-0700
Facsimile: (212) 297-0730

Lisa S. Kantor, Esq.
lkantor@kantorlaw.net
KANTOR & KANTOR, LLP
19839 Nordhoff Street
Northridge, CA 91324
Telephone: (818) 886-2525
Facsimile: (818) 350-6272
Attorneys for Plaintiff
DOMINIQUE DEMONCHAUX

CERTIFICATE OF SERVICE

I, BETSY D. BAYDALA, hereby certify and affirm that a true and correct copy of the attached **NOTICE OF MOTION TO STRIKE** was served **via ECF and regular mail** on this 9th day of November, 2011, upon the following:

Scott M. Riemer
sriemer@riemerlawfirm.com
RIEMER & ASSOCIATES, LLC
60 East 42nd Street, Suite 1750
New York, NY 10165
Telephone: (212) 297-0700
Facsimile: (212) 297-0730

Lisa S. Kantor, Esq.
lkantor@kantorlaw.net
KANTOR & KANTOR, LLP
19839 Nordhoff Street
Northridge, CA 91324
Telephone: (818) 886-2525
Facsimile: (818) 350-6272
Attorneys for Plaintiff
DOMINIQUE DEMONCHAUX

Dated: New York, New York
November 9, 2011

s/
BETSY D. BAYDALA (BB 5165)